IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 258/2005

Shri Prassanna Parshuram Acharya,
Landlord, aged about 40 years,
r/o. House No. not known at
Gogal, Margao. ..... Petitioner.

V/s.

Communidade of Loliem,
Having its Office at Chaudi,
Canacona, represented by its
Special Attorney Shri Vaman Putu
Prabhu Shashtri, landlord, aged
62 years, resident of House No.349,
Agos, Loliem in Canacona Taluka. ..... Respondent.

Mr. S. S. Kantak, with Ms. Leena A. Kamat, Advocates for the petitioner.

Mr. V. R. Tamba, Advocate for the respondent.

CORAM : R.M. LODHA, J.

DATE : 15TH SEPTEMBER, 2005.

ORAL JUDGMENT

Rule, returnable forthwith. Mr. V. R. Tamba waives service for the respondent. Rule is heard finally at this stage.

2. Vaman Putu Shashtri, Ex-Attorney of the plaintiff whose examination-in-chief was tendered by way of affidavit on 24.7.2003 was to be cross examined by the defendant. Despite opportunities given to the defendant to cross examine the said witness, he was not cross examined. On 21.6.2005, an application was made by the defendant for adjournment on the ground that his Advocate Pandurang Devari was unable to attend due to his personal difficulty. The trial Court was not persuaded by the request of the defendant and closed the cross examination of the plaintiff's witness Vaman Putu Shashtri. The defendant has filed this writ petition challenging the order dated 21.6.2005.

3. Without going into the diverse contentions raised in the writ petition, I am satisfied that in the interest of justice one opportunity may be granted to the petitioner (the defendant) for cross examination of the plaintiff's witness Vaman Putu Shashtri (PW.1) subject to payment of cost of Rs.5,000/- .

4. Rule is accordingly disposed of by the following order :

(i) The witness Vaman Putu Shastri shall appear before the trial Court on 11th October, 2005.

(ii) The defendant shall cross examine the said witness on that day or on any other date that may be fixed by the trial Court, but the defendant shall not be entitled to seek any adjournment.

(iii) If. on 11th October, 2005 or on any other date that may be fixed by the Court, the defendant does not cross examine the witness Vaman Putu Shastri, the cross examination of the said witness shall stand closed and no further opportunity shall be given to the defendant for cross examination of the said witness.

(iv) The payment of cost of Rs.5,000/- shall be paid by the defendant to the plaintiff within two weeks from today.

The writ petition is disposed of accordingly.

R.M. LODHA, J.

ssm.